UNITED STATES DISTRICT COURT NORTHERN DISTRICT INDIANA FORT WAYNE DIVISION

Q.C. ONICS VENTURES, LP,)	
Plaintiff)	
v.)	CASE NO. 1-04-CV-138-TS
JOHNSON CONTROLS, INC.,)	
Defendant.)	

OPINION AND ORDER

The Defendant seeks summary judgment on Plaintiff's only remaining claim in this matter, a claim under the theory of promissory estoppel. The Defendant filed its motion on July 28, 2006, arguing that the Court's June 21, 2006, Opinion held there was no evidence of a promise outside of the individual purchase orders, and without evidence of a specific, clear, and unambiguous promise, the Plaintiff's promissory estoppel claim fails. The Defendant also argues that the Plaintiff's promissory estoppel claim was waived because the parties' contracts required the Plaintiff to bring all claims within three months of the termination of the contracts.

The Plaintiff responded on August 31, 2006, agreeing that its promissory estoppel claim cannot stand after the Court's June 21, 2006, Opinion. In addition, the Plaintiff argues that the Defendant's waiver argument is deficient.

The Defendant filed its reply on September 18, 2006, arguing that it would be improper for the Court to rule on the Defendant's waiver argument in light of the Plaintiff's consent to the dismissal of its claim.

The Court agrees that there is no need to consider the Defendant's waiver argument in light of the Plaintiff's concession. Because the Plaintiff accedes to the dismissal of its

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promissory estoppel claim, the Defendant's motion for summary judgment [DE 120] is GRANTED and the Plaintiff's promissory estoppel claim is DISMISSED. Judgment is to be ENTERED in this case in favor of the Defendant.

SO ORDERED on November 22, 2006

S/ Theresa L. Springmann
THERESA L. SPRINGMANN
UNITED STATES DISTRICT COURT